

## REMARKS

### REQUEST FOR RECONSIDERATION OF NOTICE OF NON-COMPLIANT AMENDMENT

In response to a Restriction Requirement between the invention of Group I (drawn to transport pipe and method of use) and Group II (method of making a pipe), on March 3, 2009, Applicants elected Group I.

In response to an election of species requirement, Applicants elected Figure 1.

In fact, Figures 1, 2 and 3 show the same embodiment of the joint of the invention. Figure 3 is merely an enlarged view. As indicated in paragraph [0043] of the specification as published: *“In the exemplary embodiment shown in Figs. 1, 2 and 3 ... Further, the outer wave contour 38 of the ring sleeve 18 becomes more shallow going towards its free end. The sequentially following wave peaks 38 of the wave contour 38 exhibit a decreasing radial height going towards the free end of the ring sleeve 18. Directly at the collar 16 there is joined or connected a sharp-edged radial returning wave valley 40, to which are joined, going to the free end 36 of the ring sleeve, two wave peaks 38 separated from each other by a further wave valley 42. Therefrom there results an optimal form fitting between ring sleeve 18 and outside lying reinforcing jacket 14, so that even with high axial stresses or loads no longitudinal enlargening of the transport pipe is to be feared.....”*

In the Amendment of April 4, 2009, the Examiner indicated that claims indicated as reading on the elected species at the time of the requirement were: 1, 2, 7 – 12, 14, 15, 18, 19 and 22-28.

Applicants in response incorporated claim 22 into claims 1 and 8. However, claim 22 referred to “the sequential wave peaks (38)”. It is obvious that:

- the sequential wave peaks of claim 22 are in the elected species of Figure 1, and
- there being no antecedent basis for “the sequential wave peaks (38)” in claim 22, and there being reference to two wave peaks are separated from each other by a wave valley in claim 21, claim 22 should have properly depended from claim 21.

Claim 21, in reciting two wave peaks, recites the basic structure shown in Figure 1 (and 2 and 3) and does not define any subject matter outside the scope of species 1.

Accordingly, claim 22 (second wave has decreasing radial height) clearly followed claim 21 (first recitation of two wave peaks).

Mere incorporation of claim 22 into claim 1, without also incorporating the limitation of claim 21, would not make sense.

Claim 21 claimed what was shown in Figure 1 (and 2 and 3) and thus the Examiner's withdrawal of claim 21 is in error.

Further, Applicants incorporate the limitation from claim 20 (the wave contour on the outer surface exhibits, immediately adjacent the collar (16), an axially joining, sharp edged radial rebounding wave valley (40)) into claims 1 and 8. Adding a limitation to a claim further limits a claim and does not expand a claim into reading on a non-elected species. In any case, the limitations of claim 20 are shown in elected species of Fig. 1.

Accordingly, it is respectfully requested that the Notice of Noncompliant Amendment be withdrawn, and that the Amendment filed May 28, 2009 be entered, and that **the present Amendment NOT be entered.**

**-- IN THE ALTERNATIVE --**

## **RESPONSE TO NOTICE OF NON-COMPLIANT AMENDMENT**

### **Status of Claims**

Claim 5 is amended to independent form by incorporation of original claim 1.

Claim 22 ("the sequential peaks") is incorporated into claims 1 and 8 ***WITHOUT*** also incorporating limitations from claim 21 ("at least two wave peaks").

Claim 21 is thus not canceled.

The limitation from claim 20 (the wave contour on the outer surface exhibits, immediately adjacent the collar (16), an axially joining, sharp edged radial rebounding wave valley (40)) into claims 1 and 8. Adding a limitation to a claim further limits a claim and does not expand a claim into reading on a non-elected species. In any case, the limitations of claim 20 are shown in elected species of Fig. 1.

Regarding the status of the claims, Applicants note that, in response to a Restriction Requirement, Applicants had elected without traverse the Invention of Group I, claims 1-28 and 38-39, drawn to a transport pipe and method of use.

Applicants herewith cancel claims 22 (being incorporated into claims 1 and 8) and 29-37, drawn to a method of making pipe.

In response to an Election of Species requirement, “to which the claims shall be restricted if no generic claim is finally held to be allowable”, Applicants had elected the species of Figure 1.

Claims indicated as reading on the elected species at the time of the requirement were: 1, 2, 7 – 12, 14, 15, 18, 19 and 22-28.

Applicants respectfully submit that original claim 1 (currently amended to include limitations of claims 20 and 22) is a generic linking claim, and that all species are sufficiently related to be examined in the same application.

Accordingly, upon determination of allowability of generic claim 1, claims to non-elected species must be examined.

Original claim 1 is now incorporated into claim 5 – a non-elected species but within generic original claim 1.

Thus, it is respectfully submitted that the current status of claims is as follows:

Claims 1, 2, 7 – 12, 14, 15, 18, 19 and 23-28, all reading on the elected species, are currently under examination;

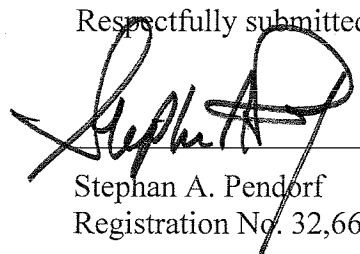
Claims 3-6, 13, 16-17, 20 and 21, reading on non-elected species but within generic claim 1, are withdrawn but will be considered following determination of allowability of claim 1; and

Claims 22 and 29-37 are canceled.

**The remainder of the Amendment filed May 28, 2009 remains unchanged.**

The Commissioner is hereby authorized to charge any fees which may be required at any time during the prosecution of this application without specific authorization, or credit any overpayment, to Deposit Account Number 16-0877.

Respectfully submitted,



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